6-21-2018

Kenworth Sales Company v. Skinner Trucking, Inc. Appellant's Brief Dckt. 45764

IN THE SUPREME COURT OF THE STATE OF IDAHO

KENWORTH SALES COMPANY, a Utah corporation, doing business in the state of Idaho,

Plaintiff/Appellant,

vs.

SKINNER TRUCKING, INC., an Idaho corporation; JAMES E. SKINNER, an individual; and DAVID C. SKINNER, an individual;

Defendants/Respondents.

Supreme Court No. 45764

Twin Falls County District Court
Case No. CV42-16-2539

APPELLANT'S BRIEF

APPEAL FROM THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

HONORABLE RANDY J. STOKER, DISTRICT JUDGE PRESIDING

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Appeal from the District Court of the Fifth Judicial District of the State of Idaho, in and for Twin Falls County, Honorable Randy J. Stoker, presiding.

I. STANDARD OF REVIEW

This Court's review following a bench trial is "limited to ascertaining whether the evidence supports the findings of fact, and whether the findings of fact support the conclusions of law." *Mortensen v. Berian*, 163 Idaho 47, 48, 408 P.3d 45, 48 (2017). This Court will not set aside a trial court's findings of fact unless they are "clearly erroneous." *Id.* Clear error will not be deemed to exist if the findings are "supported by substantial and competent, though conflicting, evidence." *Id.* "If there is evidence in the record that a reasonable trier of fact could accept and rely upon in making the factual finding challenged on appeal, there is substantial and competent evidence." *Id.*

Over matters of law, this Court exercises free review and is unbound by the trial court's legal conclusions, meaning it is free to draw its own conclusions from the facts presented. *Id.*; *see also Elec. Wholesale Supply Co., Inc. v. Nielson*, 136 Idaho 814, 820, 41 P.3d 242, 248 (2001) (holding that the Supreme Court exercises free review over the lower court's conclusions of law to determine (1) whether the court correctly stated the applicable law and (2) whether the legal conclusions are sustained by the facts found).

II. STATEMENT OF THE CASE

A. Statement of the Case

This case presents a question regarding the proper application of the elements of an unjust enrichment claim, specifically, whether or not the trial court properly analyzed and applied the first element of a prima facie unjust enrichment claim. This case also presents a question regarding whether or not it was error for the trial court to apply the affirmative defense of the officious intermeddler rule when it was never once pled or asserted before trial or argued during trial.

Finally, this case presents a question concerning whether or not the trial court erred in its conclusion that the officious intermeddler rule applied under the facts presented at trial.

B. Statement of Facts

Kenworth Sales Company ("Kenworth") is a licensed dealer engaged in the business of selling and buying commercial trucks. R. 185. Skinner Trucking, Inc. ("STI") is a business engaged in the commodity transportation business. R. 185-186. The two companies have done business together for more than forty years, during which STI leased a number of trucks sold by Kenworth. R. 186; Tr. 67.[1] GE TF Trust ("GE") is a financing entity that, among other things, purchases vehicles from Kenworth for lease to companies such as STI. R. 186.

In 08/18/11, STI selected three new Kenworth trucks, which Kenworth sold to GE and GE leased to STI under a four-year TRAC lease. *Id.* The provisions of the lease established a residual payoff amount that was due on each of the three trucks at the end of the lease period. *Id.* That amount was set at $58,051.20 per truck. R. 187. At the end of the lease period, STI had the option of purchasing the trucks for that amount or turning them in and waiting for the trucks to be sold. R. 186. If the sales amount exceeded the residual amount, STI was to receive a surplus. *Id.* If the trucks were to sell for less than that amount, STI was obligated to pay the difference. *Id.* James and David Skinner personally guaranteed STI's lease obligations to GE. *Id.*

As the lease period ended in October of 2015, STI was experiencing financial hardship. *Id.* Therefore, STI found itself unable to (1) sell the trucks, (2) purchase the trucks by paying off the residual amount, or (3) obtain financing to pay off the residual amount. *Id.* At this time, STI was also behind on its lease payments to GE by approximately $7,000.00. *Id.*

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[1] Most references to the Transcript on Appeal in this case will be to the transcript prepared by Tracy Barksdale, which includes the trial transcript. To avoid any confusion, these references will use the designation "Tr." while any citation to the transcript prepared by Candice Childers will use the designation "Supp. Tr." for supplemental transcript.

Kenworth was aware of these circumstances and, as STI was a valued long-term customer, did not wish to see its financial situation worsen if the trucks were to be sold quickly at auction. R. 186-187. Kenworth discussed the matter with James Skinner on a number of occasions and ultimately, in the late fall and early winter of 2015, STI surrendered the trucks to Kenworth. R. 187. At the time of surrender, the value of each truck was $42,000.00. *Id.* This was partly the result of STI's decision to strip off and sell each truck's auxiliary power unit before surrender for a total of $12,000.00. Tr. 74, 95-96.

Kenworth subsequently paid off the residual amount on each truck and the $7,073.17 in delinquent lease payments, ending the Defendants' obligation under the lease to GE. R. 187. This was done in an effort to buy STI more time to make good on their financial obligations, without incurring additional late fees and legal costs. R. 186-187; Tr. 111-112. In January of 2016, Kenworth invoiced STI for $55,226.77, the difference between the value of the trucks at surrender and their respective residual amounts, as well as the unpaid lease payments. R. 187. The trucks remained unsold on Kenworth's lot until the Spring of 2017, when they sold for $34,500 each. R. 188. Neither STI, Jim Skinner, nor David Skinner ever responded to Kenworth's invoice. Tr. 76-77.

A. The Proceedings Below

This matter comes to this Court on appeal of the trial court's *Findings of Fact and Conclusions of Law* (the "Decision"), issued on 12/19/17 following a one-day court trial and post-trial briefing. In the Decision, the trial court entered judgment for the Defendants with regard to Plaintiffs unjust enrichment claim, finding that (1) with regard to the residual amounts under the lease, Plaintiff conferred no benefit on the Defendants and (2) with regard to the past

due lease payments, assuming a prima facie case of unjust enrichment was established, the officious intermeddler rule precluded recovery.

III. ISSUES PRESENTED ON APPEAL

A. Did the trial court err in its analysis/application of the elements of a prima facie unjust enrichment case?

B. Did the trial court err in both considering and then applying the officious intermeddler affirmative defense, when it was never pled by the Defendants/Respondents in their Answer or asserted either at trial or in any brief filed by the Defendants/Respondents prior to their closing brief filed after trial?

C. Did the trial court err in applying the officious intermeddler affirmative defense when there was evidence presented at trial that Kenworth had a valid reason for conferring a benefit on STI?

IV. ARGUMENT

A. The District Court Erred When It Determined that With Regard to the Residual Amount Under the Lease, Kenworth's Actions Conferred No Benefit on the Defendants/Respondents.

The district court erred when it determined that there was no benefit conferred on the Defendants/Respondents by Kenworth because the district court incorrectly applied Idaho caselaw on the matter, applying only a portion of the legal standard while ignoring the remainder. The evidence presented demonstrated that at the time that the vehicles were surrendered, they were worth $42,000.00 apiece and that STI was broke and unable to either sell the trucks, purchase the trucks for the residual amounts, or obtain financing to pay off the residual amounts. The evidence also established that if Kenworth had not stepped in and payed off the residual amounts to GE, the trucks would have sold at a quick auction, wherein they would likely have sold for below the value placed on them by Kenworth, leaving STI and the Skinner brothers on the hook for the difference. Kenworth's action terminated the Defendants/Respondents' liability under the lease to GE, and

for this reason, the district court should have held that Kenworth's actions conferred a benefit on thereon.

i. The District Court erred by failing to apply the entire legal test for the first element of an unjust enrichment claim.

The district court held that when Kenworth paid GE for the outstanding residual amounts owed by STI under the lease, doing so did not confer a benefit on the Defendants/Respondents. R. 191-192. However, in making such a determination, the court only partially applied the applicable legal test.

To establish the first element of a prima facie unjust enrichment claim, one must prove the existence of "a benefit conferred upon a defendant by a plaintiff." *Med. Recovery Services, LLC v. Bonneville Billing and Collections, Inc.*, 157 Idaho 395, 398, 336 P.3d 802, 805 (2014). A benefit is considered conferred when one "gives the other some interest in money, land, or possessions, performs services beneficial to or at the request of the other, satisfies the debt of the other, or in any other way adds to the other's advantage." *Id.* The district court correctly cited to this language in its Decision, but then proceeded to only partially apply the test.

In its analysis on this issue, the court determined that because Kenworth paid GE the exact amount owing on the lease (i.e. the full residual amounts for each of the three trucks), they cannot be said to have given the Defendants/Respondents any interest in money, land, or possessions. R. 191-192. The court further determined that "[s]ince the vehicles sold for the residual amount…Kenworth did not satisfy Skinner's debt." R. 192. "Without a debt to satisfy," the court held, "there is no benefit conferred upon Skinner by Kenworth, and its unjust enrichment claim fails." *Id.* But, what is missing entirely from the court's analysis is any application of the language from *Med. Recovery Services* regarding one who "performs services beneficial to or at the request of another" or who "in any other way adds to the other's advantage."

Kenworth performed services for STI and the Skinner brothers by taking in the trucks at the end of the lease, cleaning, repairing and storing them, and paying off their obligations under the lease to GE. At the time that the trucks were surrendered, Kenworth employees informed the Skinners that this would be done, and no objection was made. These actions were indisputably beneficial to the Defendants/Respondents, as had they not been done, STI and the Skinners would have remained liable for an obligation that they admit they could not have repaid.[2] Furthermore, these actions clearly added to STI's advantage, as Kenworth's actions enabled STI (and the Skinners) to walk away from an obligation of over $50,000.00.

Even if this Court were to determine that it is arguable whether or not Kenworth's actions satisfy the meaning of this language from *Med. Recovery Services*, the district court's failure to even address these issues in its analysis is clear error. Therefore, the district court's determination that no benefit was conferred should either be overruled or remanded for further determination.

ii. The District Court erred when it determined that Kenworth did not satisfy the Defendants/Respondents' debt.

In analyzing the first element of Kenworth's unjust enrichment claim, the district court determined that with regard to Kenworth's decision to pay off the residual lease amounts owed by the Defendants/Respondents on each of the three trucks, "Kenworth did not satisfy Skinner's debt." Such a conclusion is unsupported by any reasonable interpretation of the facts.

It was established at trial that (1) STI was obligated to GE under the lease for the residual amounts on each vehicle, (2) the Skinner brothers were also so obligated as personal guarantors, (3) at the end of the lease term, the Skinners were unable to sell, purchase, or finance the trucks

[2] Under these TRAC leases, STI was liable at the end of the lease term for the residual amounts on each of the three trucks. While it could have chosen to purchase the trucks for that amount, sell them to a third party, or surrender them to be sold, risking the chance of a deficiency, the underlying liability for the residual amounts remained the same.

and lacked the resources to pay the outstanding residual amounts, (4) Jim Skinner knew that the value of the trucks was significantly lower than the outstanding residual amounts, (5) Kenworth informed Jim Skinner that they would take the trucks and see what they could do to help,[3] (6) the Skinners surrendered the trucks to Kenworth, and (7) Kenworth paid GE exactly what STI owed under the lease. The only conclusion that can reasonably be drawn from these facts is that Kenworth's actions satisfied the Defendants/Respondents' debt.

The trial court seems to have determined that because the lease language stated that STI would only be liable for a deficiency should GE sell the trucks at the end of the lease term for less than the residual amounts, and because Kenworth paid off the entire residual amounts before such an auction occurred, STI and the Skinner brothers simply owed no debt to GE for Kenworth to satisfy. However, such a conclusion ignores the facts presented at trial.

Jim Skinner admitted at trial that the trucks were worth $42,000.00 each at the time that the trucks were surrendered and that the residual amounts due under the lease were $58,021.20 per truck. He also admitted that he had tried to sell the trucks on his own, but failed, tried to finance the purchase of the trucks and failed, and that STI was broke and therefore lacked the funds to pay a deficiency that was certain given the trucking market at the time. Tr. 63-66, 74-76. Finally, he further admitted that before turning the trucks in, STI stripped them of their auxiliary power units and sold them for $12,000.00, further depressing the trucks' value. Tr. 73-74. Under these circumstances, at the time that the trucks were surrendered, STI was indebted to GE under the lease.[4]

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[3] Tr. 110-113.

[4] STI owed the residual amounts at the end of the lease term, regardless of whether or not GE could sell the trucks for more than the residual amount (in which case STI's liability would end and it would be entitled to a surplus) or less than that amount (in which case STI would be on the hook for a deficiency).

The Merriam-Webster Dictionary defines debt as "something owed: OBLIGATION." *Debt*, *Merriam-Webster Dictionary* (2nd ed. 2016). Under the facts presented at trial, STI was obligated at the end of the lease to either purchase the trucks from GE for the residual amounts or to pay the difference between the amount that the trucks were sold for and the residual amounts as a deficiency. The Defendants admitted at trial that the trucks were worth considerably less than the residual amounts at time of surrender and that they couldn't purchase them, finance them, or sell them themselves. Therefore, at the time of surrender, the Defendants were obligated to GE under the lease for a deficiency, which Kenworth stepped in and paid off in full. Under these facts, Kenworth satisfied the Defendants' debt, and as such, the first element of a prima facie unjust enrichment case was proven at trial.

B. The District Court Erred When It Considered and Applied the "Officious Intermeddler Rule," as it is an Affirmative Defense that was Never Pled by the Defendants or Asserted either Before or During Trial.

The district court erred when it based its decision in favor of the Defendants/Respondents on an affirmative defense that was never pled or argued, either before or during trial. Doing so was contrary to Idaho caselaw and the Idaho Rules of Civil Procedure, prejudicing Plaintiff by eliminating its ability to address the defense with either facts or argument at trial. Additionally, the district court's application of the defense was cursory and ran contrary to the manifest weight of the evidence.

i. The officious intermeddler rule is an affirmative defense that was waived when unpled.

Idaho's courts have long recognized the officious intermeddler rule as a defense to an unjust enrichment claim. *See Curtis v. Becker*, 130 Idaho 378, 941 P.2d 350 (Ct. App. 1997); *Chinchurreta v. Evergreen Management, Inc.*, 117 Idaho 591, 790 P.2d 372 (Ct. App. 1989); *Teton Peaks Inv. Co., LLC v. Ohme*, 146 Idaho 394, 195 P.3d 1207 (2008) ("Unjust enrichment will not

apply in the instance of an officious intermeddler."). While the rule is never explicitly referred to as an affirmative defense, it is certainly treated as such by the courts. *See Teton Peaks*, 146 Idaho at 398-99, 195 P.3d at 1211-12 (listing the elements of an unjust enrichment claim and then discussing the officious intermeddler rule); *Curtis*, 130 Idaho at 382, 941 P.2d at 354 (listing the elements of a prima facie unjust enrichment case and then stating that "[t]he principle of unjust enrichment, however, is applicable only if the person conferring the benefit is not an "officious intermeddler."); *Chinchuretta*, 117 Idaho at 593, 790 P.2d at 374 (applying the rule as a defense, separate and apart from an analysis of the three elements of an unjust enrichment claim).

Black's Law Dictionary defines an affirmative defense as "[a] defendant's assertion of facts and arguments that, if true, will defeat the plaintiff's or prosecution's claim, even if all the allegations in the complaint are true." *Affirmative Defense*, *Black's Law Dictionary* (9th ed. 2009). That definition describes the officious intermeddler rule. One can satisfy the three elements of a prima facie unjust enrichment claim and nevertheless fail in his claim if the court determines that the action was that of an intermeddler. In fact, an analysis of the trial court's application of the rule leads to the unavoidable conclusion that such is exactly what the trial court did.

After determining that Plaintiff never conferred a benefit on the defendants when it paid GE the residual amounts on each of the three trucks, the trial court then determined that with regard to the past due lease payments, the first element of an unjust enrichment claim had been met. R. 192. The court went on to state that "[e]ven assuming the other two prongs of unjust enrichment can be met in both claims, the doctrine of the officious intermeddler should be examined." *Id.* By applying the defense of officious intermeddler to defeat Plaintiff's claims, *after assuming that Plaintiff had met all three elements of its unjust enrichment claim*, one can only conclude that the trial court applied the doctrine as an affirmative defense.

Furthermore, this Court explained in *Williams v. Paxton*, 98 Idaho 155, 163, 559 P.2d 1123, 1131 n.1 (1976), that affirmative defenses "generally are defenses in which the defendant has the burden of introducing evidence and persuading the finder of fact…which the plaintiff may defeat by the introduction of evidence of his own." Here, the trial court recognized that the officious intermeddler doctrine operates to prevent an unjust enrichment claim where "a mere volunteer who, without request therefor, confers a benefit upon another" and that an individual "is not an intermeddler if such person has a valid reason for conferring the benefit, such as protecting an interest." R. 190-191, citing to *Curtis*. In sum, the defendant bears the burden of establishing the absence of any request (i.e. voluntariness), after which the plaintiff may then defeat that defense by presenting evidence of a valid reason. Therefore, under the language cited from *Paxton*, the officious intermeddler rule is an affirmative defense.

An affirmative defense must be either asserted or waived. I.R.C.P. 8(b)(1)a states that "[i]n responding to a pleading, a party must: (A) state in short and plain terms its defenses to each claim asserted against it; and (B) admit or deny the allegations asserted against it by an opposing party." I.R.C.P 8(c)(1) states that "[i]n responding to a pleading, a party must affirmatively state any avoidance or affirmative defense…." The purpose of that rule "is to alert the parties concerning the issues of fact which will be tried and to afford them an opportunity to present evidence to meet those defenses." *Paxton*, 98 Idaho at 163, 559 P.2d at 1131 n.1.

Here, the Defendants/Appellants never raised the defense of officious intermeddling, either before or during trial. It was not pled in their Answer and it was absent from their Trial Brief.[5] Similarly, the Defendants/Appellants failed to raise the defense during trial[6] and made no attempt

[5] For the Answer, *see* R. 16-19. For the Defendants' Trial Brief, *see* R. 98-106.
[6] The defense waived an opening statement and in lieu of closing statements, the parties were instructed to submit closing briefs. Tr. 58, 184.

to amend their Answer to conform to the evidence presented at trial. Instead, the issue was raised for the first time in the Defendants' closing brief, filed with the Court three days after trial, leaving the Plaintiff/Respondent no opportunity to respond.[7]

This amounted to little more than trial by ambush, where Plaintiff was given no notice of a key defense, the Defendants/Appellants made no attempt to argue the defense, and yet the court considered, applied, and based its decision almost entirely on it. Plaintiff was under no requirement to anticipate every possible defense that the Defendant *might* raise in its post-trial closing brief, and to painstakingly present evidence to counter each such possible defense at trial. Avoiding such a scenario is the very purpose behind the pleading requirements of I.R.C.P. 8(b) and (c). Therefore, by failing to raise the defense of officious intermeddling before or even during trial, the Defendants/Appellants waived the defense and it was error for the trial court to rely on it as its basis to deny Plaintiff recovery.

ii. The District Court also erred in its application of the officious intermeddler affirmative defense.

Even if this Court finds that the officious intermeddler defense was not waived, and therefore that the trial court did not err in considering said defense, the trial court erred in its application of that doctrine to the facts established at trial.

The district court was correct in stating that the officious intermeddler rule operates to defeat an unjust enrichment claim where a plaintiff is found to be "a mere volunteer who, without request therefor," conferred a benefit upon a defendant. Idaho's caselaw on the matter, although sparse, makes this clear. *See Curtis*, 130 Idaho at 382, 941 P.2d at 354; *Teton Peaks*, 146 Idaho at 398, 195 P.3d at 1211. However, the same caselaw also makes it clear that the defense does not

[7] For the Defendants' closing brief, *see* R. 114-126. Defense counsel admitted at a hearing on 1/16/18 before Judge Shindurling that he didn't even come across the officious intermeddler defense until working on his closing argument *after* trial.

apply where the party conferring said benefit "has a valid reason" for doing so. *Curtis*, 130 Idaho at 382, 941 P.2d at 354. This is where the trial court's reasoning fails.

In its analysis on this issue, the trial court stated the following:

> The only question left is whether Kenworth had a valid reason to do so. Testimony at trial established that the only reason Kenworth had for purchasing the vehicles from GE is that they wanted to keep Skinner in business. There was no testimony indicating that Kenworth had an interest in the trucks and while they had a past relationship with Skinner, there is no indication that Skinner would continue to do business with them.

R. 193. In these three short sentences, the trial court (1) recognized Plaintiff's reason for satisfying the Defendants/Appellants' debt to GE (to keep STI in business) and then (2) simply chose to ignore it. We have zero explanation as to why Kenworth's desire to keep a long-time customer in business was not considered a valid reason for satisfying STI's debt to GE. Additionally, the final statement, that there was "no indication that Skinner would continue to do business with them" is unsupported by any evidence in the record and is actually contrary to the manifest weight of the evidence.[8] Therefore, the trial court erred in its determination that a valid reason for Plaintiff's actions did not exist, and as such, the officious intermeddler rule was improperly applied.

V. CONCLUSION

For the foregoing reasons, Plaintiff/Appellant respectfully requests that this Court enter an order reversing the decision of the district court, finding that the Plaintiff has proven its unjust enrichment claim.

[8] The *only* evidence presented at trial was that Kenworth and STI had a business relationship spanning forty plus years, that STI was a valued customer of Kenworth, and that Kenworth was concerned that STI may have been facing financial ruin.

DATED this 21st day of June, 2018.

BENOIT, ALEXANDER, HARWOOD,
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By _____
Michael D. Danielson
Attorneys for Plaintiff/Appellant

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of June, 2018, I caused a true and correct copy of the foregoing **APPELLANT'S BRIEF** to be served upon the following attorney in the following manner:

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